

**Serial No. 10/657,524**

**Amdt. in Response to Office Action mailed Feb. 9, 2006**

**UTILITY PATENT**

**B&D No. TN3481**

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Figs. 1-2. This sheet, which includes Fig. 1-4, replaces the original sheet including Figs. 1-4.

**Attachment: Replacement Sheet**

Serial No. 10/657,524

Amdt. in Response to Office Action mailed Feb. 9, 2006

UTILITY PATENT

B&amp;D No. TN3481

**REMARKS**

Applicant has amended Claim 1 and added Claim 17.

Currently pending in the application are Claims 1-9 and 17.

The Examiner objected to FIGS. 1-2 because the numeral "20" is used to represent two different features (the "movable fence assembly" and the "motor"). The Examiner suggested that one of the numerals in the drawings be changed to -25-. In response, Applicant has changed the numeral referring to the motor to -25-, as suggested by the Examiner.

The Examiner objected to the Abstract for being too long. In response, Applicant has shortened the Abstract.

The Examiner objected to the Specification because the numeral "20" is used to represent two different features (the "movable fence assembly" and the "motor"). The Examiner suggested that one of the numerals be changed to -25-. In response, Applicant has changed the numeral referring to the motor to -25-, as suggested by the Examiner.

In addition, the Examiner suggested adding -guard—after "lower blade" in line 6 of paragraph 0003. In response, Applicant has amended paragraph 0003, as suggested by the Examiner.

The Examiner objected to Claims 1 and 6-9 for several reasons. First, the Examiner objected to the phrases "where the blade does not engage the workpiece" and "where the blade engages the workpiece." In response, Applicant has amended Claim 1 as suggested by the Examiner. Applicant considers such amendments to express differently what was already expressed and thus do not constitute narrowing amendments.

Serial No. 10/657,524

Amdt. in Response to Office Action mailed Feb. 9, 2006

UTILITY PATENT

B&amp;D No. TN3481

Second, the Examiner noted that the recitations concerning the fixed fence, movable fence and/or the auxiliary fence contacting the workpiece "appear to be improper" since the structure is being positively defined in terms of the workpiece. Applicant disagrees. These fence elements have been structurally defined and claimed with respect to each other, rather than being solely defined in terms of the workpiece.

The Examiner rejected Claims 1 and 6-9 under 35 USC 102(b) as anticipated by EP 0 752 300 ("EP '300"). Reconsideration and withdrawal of these rejections are respectfully requested.

Claim 1, as amended, calls for *inter alia* a fence assembly attached to the base. The fence assembly comprises a fixed fence fixedly attached to the base a movable fence removably connected to the fixed fence, the movable fence defining a first support plane, at least one of the fixed fence and the movable fence for contacting the workpiece, and an auxiliary fence disposed behind at least one of the fixed fence and the movable fence, the auxiliary fence defining a second support plane substantially parallel to the first support plane, the auxiliary fence contacting the workpiece when the movable fence is removed.

While EP '300 may have a fixed fence and a movable fence, EP '300 does not disclose a movable fence that is removable. Furthermore, EP '300 lacks an auxiliary fence disposed behind the fixed fence and/or a movable fence for contacting the workpiece when the movable fence is removed.

By contradistinction, Claim 1 requires (a) "a movable fence removably connected to the fixed fence," and (b) "an auxiliary fence disposed behind at least one of the fixed fence and the movable fence, ... the auxiliary fence contacting the workpiece when the movable fence is

Serial No. 10/657,524

Amdt. in Response to Office Action mailed Feb. 9, 2006

UTILITY PATENT

B&amp;D No. TN3481

removed.” Because EP ‘300 does not disclose such elements, it cannot anticipate Claim 1 and its dependent claims.

The Examiner rejected Claims 1 and 6-9 under 35 USC 103(a) as being unpatentable over US Patent No. 4,869,142 (“Sato”). Reconsideration and withdrawal of these rejections are respectfully requested.

While Sato may have a fixed fence, it lacks a movable fence, as admitted by the Examiner, or a movable fence that is removable. Furthermore, EP ‘300 lacks an auxiliary fence disposed behind the fixed fence and/or a movable fence, the auxiliary fence defining a second support plane substantially parallel to the first support plane defined by the movable fence. This is because, even assuming for the sake of argument that the guard 37 is a fence, Sato describes aligning guard 37 to fence 3 (Sato, col. 5, lns. 28-30), rather than disposing guard 37 behind fence 3 for a cutting operation. The only disclosure teaching to place an auxiliary guard behind a removable fence can be found in the present Specification, which cannot be used to interpret Sato in a hindsight manner.

By contradistinction, Claim 1 requires (a) “a movable fence removably connected to the fixed fence,” and (b) “an auxiliary fence disposed behind at least one of the fixed fence and the movable fence, the auxiliary fence defining a second support plane substantially parallel to the first support plane” defined by the movable fence. Because Sato does not disclose such elements, it cannot render unpatentable Claim 1 and its dependent claims.

No fee is believed due. Nevertheless, the Commissioner is authorized to charge payment of any fees due in processing this amendment, or credit any overpayment to Deposit Account No. 02-2548.

**Serial No. 10/657,524**

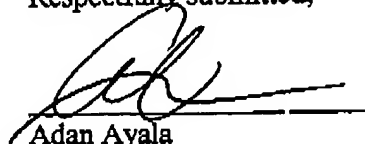
**Amdt. in Response to Office Action mailed Feb. 9, 2006**

**UTILITY PATENT**

**B&D No. TN3481**

In view of the foregoing, Claims 1-9 are patentable and the application is believed to be in condition for formal allowance.

Respectfully submitted,



Adan Ayala  
PTO Reg. No. 38,373  
Attorney for Applicant

Adan Ayala - TW-199  
The Black & Decker Corporation  
701 East Joppa Road  
Towson, Maryland 21286  
(410) 716-2368